

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14740 of James A. and Doris A. Poindexter, pursuant to 11 DCMR 3107.2, for a variance from the open court width requirements (Sub-section 406.1) for a rear deck addition in an R-3 District at premises 311 Emerson Street, N.W., (Square 3303, Lot 63).

HEARING DATE: January 27, 1988

DECISION DATE: January 27, 1988 (Bench Decision)

FINDINGS OF FACT:

1. The site known as premises 311 Emerson Street, N.W. is located on the north side of Emerson Street between 3rd and 4th Streets. The site is located in an R-3 District.

2. The R-3 District extends to the north, south and west of the site. This area is developed with row dwellings. An R-5-A District is located across 3rd Street to the east and approximately 100 feet to the south of Emerson Street. This area is improved with apartment buildings and row dwellings.

3. The site is basically rectangular in shape with a frontage of 18.52 feet along Emerson Street and a depth of approximately 140 feet. A 16 foot wide public alley is located to the east of the site. A 15 foot wide public alley is located to the north, or rear, of the site. The site is improved with a three story brick semi-detached dwelling.

4. As captioned above the applicants are seeking variances to allow an existing rear deck addition to remain on the site. The deck was constructed without permits by the Sears Wood Deck and Siding, a Sears authorized company. According to a contractual agreement, the Sears Company was responsible for securing the permits for the construction.

5. The main portion of the structure extends from lot line to lot line for a depth of 33 feet six inches. The structure extends 12 feet three inches further into the rear yard. This portion of the structure is 16 feet wide and is set back from the lot lines 18.5 inches on the west side and nine inches on the east side. The deck extends 12 feet further into the rear yard and is 16 feet wide thus maintaining the set backs from the side lot lines that the

projection from the main structure established. The deck is indented on the alley side in order to make room for the drain pipe that brings water off the roof.

6. The wooden deck will be located at the second level of the rear of the structure.

7. Advisory Neighborhood Commission 4D submitted no report on the application.

8. The neighbor of the property immediately adjacent to the site testified at the public hearing that she would like a privacy wall to be erected on the west side of the deck to protect her property. The Board concurs.

9. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

Section 406.1 requires that an open court width of six feet be provided on either side of the deck. The deck will provide open court widths of 1.54 feet and 0.75 feet necessitating a variance of 4.46 feet (74.3 percent) and 5.25 feet (87.5 percent) respectively. The Board concludes that the applicants have met the burden of proof. The deck could have been extended from lot line to lot line without exceeding the lot occupancy allowance for the site. However, extending the deck the full width of the lot would be incompatible with the rear portion of the existing structure which is indented from both side lot lines. The deck is indented slightly on each side to conform with the existing structure and provide room for a drain pipe. The Board notes that the east side of the deck is located adjacent to a public alley in effect providing a court enclosed by only two sides.

The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the

CONDITION that a fence be erected on the west side of the deck to a height of not less than six feet.

VOTE: 5-0 (John G. Parsons, Charles R. Norris, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

APR 22 1988

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14740

P-600 311 985

As Acting Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to a true and correct copy of the Order of the Board in the above said Order dated APR 22 1988, has postage prepaid to each party who appeared at the public hearing concerning this matter listed below:

James + Doris Poindexter
311 Emerson St., N.W.
Wash., DC 20011

James A. & Doris A. Poindexter
311 Emerson Street, N.W.
Washington, DC 20011

Frances Lessane
313 Emerson Street, N.W.
Washington, DC 20011

14740

A handwritten signature in dark ink, appearing to read "E. L. Curry", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

P-600 311 985

DATE: APR 22 1988